IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 25686 of 1998

Between:

1. Nakka Satyanarayana, S/o. Apparao,

Conductor, Sri Veera Venkata Satyanarayana

Swamy vari Devasthanam, Annavaram,

East Godavari Dist. R/o. Annavaram.

2. Addala Govind Babu, S/o. Ramulu, Conductor,

Sri Veeravenkata Satyanaraya Swamy Vari Devasthanam,

Annavaram, East Godavari Dist. R/o. Annavaram.

..... PETITIONERS

AND

1. State of A.P., rep., by its Commissioner,

Endowments, Tilak Raod, Hyderabad.

2. Executive Officer,

Sri Veeravenkata Satyanarayana Swamy Vari Devasthanam,

Annavaram, East Godavari Dist.

(WP is dismissed for default against R.2 vide Court order dated 4.4.2003.)

(R2 restored and appeared on 25.11.1998).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of a writ of Mandamus declaring that the petitioners herein are entitled to be fixed in the pay scale attached to the post of Conductor i.e., Rs.1595-3020 with effect from 1.2.1995 (the date on which they have been regularized) and b) consequently direct the respondents to re-fix the pay scale of the petitioners and compute the arrears with effect from 1.2.1995 and release the same within a period of one month and c) further direct the respondents to pay interest @ 12% per annum from the date on which they are eligible for such fixation i.e., 1.2.1995 till date of actual payment and to pass such other order or orders deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.1: GP FOR ENDOWMENTS.

Counsel for the Respondent No.2: Ms. N.Indrani.

The Court made the following :

ORDER:

This writ petition is filed seeking a Mandamus to declare that the petitioners are entitled for the pay scales attached to the posts of conductors i.e. Rs.1595-3020 with effect from

01-02-1995 (the date on which their services have been regularized) and consequently to direct the respondents to re-fix the pay scale of the petitioners and compute the arrears with effect from 01-02-1995 and release them.

It is the case of the petitioners that their names have been sponsored by the Employment Exchange, Kakinada for being recruited in the service of the 2nd respondent-Sri Veera Venkata Satyanarayana Swamy Devastanam, Annavaram, East Godavari District. In the year 1989, the petitioners joined in the respondent No.2 Devasthanam as N.M.R. employees and have been discharging various duties that have assigned to them from time to time. They were also asked to discharge the functions of conductors and they have been doing their duties to the satisfaction of the superiors. They never gave scope for any complaint. They have put in more than five years of service as conductors in the transport wing maintained by the Devasthanam. Considering the fact that the petitioners have rendered continuous service of five years, the 1st respondent-Commissioner has approved regularization

of their service as conductors vide proceedings, dated 31-01-1995, and the same was communicated to the 2nd respondent-Executive Officer by proceedings, dated 27-02-1995. Pursuant to the said proceedings, the services of the petitioners were regularized and temporarily appointed in the cadre of drivers/conductors in the pay scale of Rs.1375-2375 with effect from the date of Commissioner's orders i.e. 01-02-1995. Together with the services of the petitioners two other individuals were also regularized. While the matter stood thus, the respondents have called for candidates for direct recruitment to the post of Conductors. The Employment Exchange, Kakinada sponsored candidates for the said purpose. Pursuant to the selections, two individuals by name Sri P.L.Narayana and M.V.R. Mohan Rao have been appointed as conductors in the time scale of
Rs.1595-3020 with usual D.A. and other allowances. As stated above, two individuals i.e. Sri A.Baburao and B.Hari Hara Babu, have been regularized along with the petitioners as conductors. The said two persons have submitted a representation to the respondents requesting that their pay be fixed in the pay scale of Rs.1595-3020, which is meant for conductors. The representation of the said two individuals was considered and the scale applicable to the conductors i.e. Rs.1595-3020 was allowed. Though the petitioners are similarly situated as that of A.Baburao and B.Hari Hara Babu, the pay fixation as was extended to them was not allowed to the petitioners. Therefore, their grievance was brought to the notice of the 2nd respondent-Executive Officer of the Devasthanam by representation dated 30-03-1998. However, for the reasons best known to the 2nd respondent, no action was taken so far. Hence, this writ petition.

It is noticed from the endorsement made by the office on the original writ petition against the respondent No.2 that "R.2 dismissed for default, vide Court order dated 04-04-2003". However, the record shows that the 2nd respondent appeared before this Court through an advocate and filed counter affidavit on 25-11-1998. Therefore, it must be deemed that the same is not dismissed against the 2nd respondent.

In the counter affidavit filed by the 2nd respondent it is stated that there were some instructions from the Commissioner of Endowments way back on 11-06-1993 to the effect that no appointments on N.M.R. basis from now onwards be made and only

required number of persons during festivals etc., have to be engaged. It is also further asserted that insofar as the petitioners are concerned, there was no sanction while they were being appointed on regular basis. Therefore, the petitioners cannot seek any relief on par with the said A.Babu Rao and
B. Hari Hara Babu. Hence, the writ petition is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material placed before this Court.

It is very difficult to accept the contention of the learned counsel for the respondent No.2 that the appointment of the petitioners was made without there being any sanction from the Commissioner as required. The very proceedings dated
27-02-1995 indicate that the regularization of the services of the petitioners in the cadre of conductors was in pursuance of orders of the Commissioners, dated 31-01-1995. Therefore, the contention of the learned counsel for the respondents cannot be countenanced. Further, it is not the case of the respondents that the petitioners are not working as conductors on par with A.Babu Rao and B.Hari Hara Babu to deny the wages on par with the said persons. Except saying that since there were some instructions issued earlier stating not to appoint persons on N.M.R. basis, and since the petitioners were appointed on N.M.R. basis and though their services were regularized in pursuance of the orders of the Commissioner, they were not entitled to wages in the scale of Rs.1595-3020 on par with others, which is most unfortunate.

In the background of the above discussion, I am of the considered opinion that the petitioners are entitled for being put on the time scale attached to the post of conductors i.e. Rs.1595-3020 with effect from 01-02-1995 (the day on which their services have been regularized). They are also entitled for other arrears of salary.

In the result, the respondents are directed to re-fix the pay scale of the petitioners attached to the post of conductors in the scale of Rs.1595-3020 with effect from 01-02-1995 and pay all arrears accrued thereon within three months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of without any order as to costs.

17-06-2005

GJ

To

1. The Commissioner Endowments, State of A.P., , Tilak Raod, Hyderabad.

2. The Executive Officer,

   Sri Veeravenkata Satyanarayana Swamy Vari Devasthanam,

   Annavaram, East Godavari Dist.

3. Two C.Cs. to the Government Pleader for Endowments, High Court of A.P., Hyderabad. (O.U.T.)

4. Two C.D. copies.